



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,659	05/03/2006	Kunihide Fujii	272751US6PCT	8928
22850 7590 03/16/2011 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER DIVECHA, NISHANT B				
ART UNIT 2466		PAPER NUMBER		
NOTIFICATION DATE 03/16/2011		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

### Office Action Summary

**Application No.**

10/538,659

**Applicant(s)**

FUJII ET AL.

**Examiner**

NISHANT B. DIVECHA

**Art Unit**

2466

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This office action is in response to communication filed 04/20/2010.
2. Claims 1-12 have been cancelled. Claims 13-17 are pending.

**Continued Examination Under 37 CFR 1.114**

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/20/2010 has been entered.

**Response to Arguments**

4. Applicant's arguments with respect to claim 13-17 have been considered but are moot in view of the new ground(s) of rejection.
5. Examiner withdraws the rejection of claim 13, 16-17 under 112, second paragraph in view of the amendments.
6. With respect to the rejection of claim 17, under 35 USC 101, applicant amended to include the word tangible to overcome the rejection as previously suggested by Examiner. However, under new examiner guidelines, the word tangible does not exclude transitory media and therefore, is still directed towards non-statutory subject matter.

### **Double Patenting**

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 13-17 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 14 of U.S. Patent No. 7346061 in view of Vega et al. (USP 6282407 B1, hereinafter referred to as Vega).

Regarding claim 13, Patent '061 discloses a communication device, comprising:

means for generating an RF (radio frequency) signal (see claim 14, col. 37, line 32-33, **discloses generating an RF signal**);

means for modulating the RF signal (see claim 14, col. 37, line 34-37, **discloses a modulator for modulating**), and for modulating a received RF signal of another device (claim 14, see col. 38, line 37-40, col. 38, line 37-41, **discloses load modulation**);

means for detecting the second RF signal of the another device wherein the means for generating is actuated to initiate an active or a passive mode communication (see claim 14, col. 37, line 38-43), when the means for detecting does not detect the second RF signal at a level of a first threshold or more (see claim 14, col. 38, line 15-26, **discloses detecting presence of RF, i.e. whether energy is greater than 0**), the active mode including a transmission of modulated data at the communication device and the another device (see col. 38, line 15-33, **discloses active mode communication**), the passive mode providing load modulated communication from the another device to the communication device (see col. 38, line 33-41, **discloses passive communication**), and, when the communication device receives an indication to start a communication of the active mode from the another device (see col. 38, line 15-17, **discloses request for initiation of active mode communication**), responding to the request using the active communication (see col. 38, line 15-33, **discloses responding to a received request**).

Patent '061 fails to disclose means for demodulating a second RF signal provided to the communication device from the another device; the means for demodulating receives data at a level of a second threshold or higher, the second threshold being higher than the first threshold.

Vega discloses a communication device, comprising:

means for demodulating a second RF signal provided to the communication device from the another device (see col.9, line 5-7, col. 12, line 37-59, discloses demodulating a received RF signal); and

the means for demodulating receives data at a level of a second threshold or higher (see figure 1, col. 6, lines 1-22, discloses transceiver operating at a second read range), the second threshold being higher than the first threshold (see figure 1, col. 6, line 1-22, discloses active read range and passive read range as threshold, and active being higher than passive), wherein communicating in passive mode when within the passive read range and communicating in active mode when in the active read range (see figure 1, col. 6, line 1-22, discloses active read range and passive read range).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to modify to include detection of the level of RF and performing communication based on detection and range.

The motivation for doing so would be to detection the range and perform communication based on the detected range.

Regarding claim 14, Patent 061 fails to disclose a communication device further comprising: means for setting the first and second threshold.

Vega discloses a communication device further comprising: means for setting the first and second threshold (**col. 8, lines 18-45, discloses a mode register for storing the modes of the transceiver and configuration information**).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to modify to allow setting different level of sensitivity by allowing setting of the first and second threshold.

The motivation for doing so would be to allow a person to configure the device for optimal performance.

Regarding claim 15, discloses a communication device wherein the RF signals are transmitted/received by a coil antenna.

Vega discloses a communication device wherein the RF signals are transmitted/received by a coil antenna (**col. 2, lines 4-26, discloses radiating information using coil antenna**).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to modify to include coil antenna such that the communication can be performed using modulation over the air.

The motivation for doing so would be to allow communication over free space.

Regarding claim 16-17, Patent '061 discloses a tangible, computer readable medium encoded with computer program instructions, which when executed cause the computer to operate as a near field communication device implementing a method comprising:

generating an RF (radio frequency) signal (see **claim 14, col. 37, line 32-33, discloses generating an RF signal**);

modulating the RF signal (see **claim 14, col. 37, line 34-37, discloses a modulator for modulating**), and modulating a received RF signal of second communication device (**claim 14, see col. 38, line 37-40, col. 38, line 37-41, discloses load modulation**);

detecting the second RF signal of the second communication device wherein the generating is actuated to initiate an active or a passive mode communication (see **claim 14, col. 37, line 38-43**), when detecting does not detect the second RF signal at a level of a first threshold or more (see **claim 14, col. 38, line 15-26, discloses detecting presence of RF, i.e. whether energy is greater than 0**), the active mode including a transmission of modulated data at the communication device and the second communication device (see **col. 38, line 15-33, discloses active mode communication**), the passive mode providing load modulated communication from the second communication device to the communication device (see **col. 38, line 33-41, discloses passive communication**), and, when the first communication device receives an indication to start a communication of the active mode from the second communication device (see **col. 38, line 15-17, discloses request for initiation of active mode communication**), responding to the request using the active communication (see **col. 38, line 15-33, discloses responding to a received request**).

Patent '061 fails to disclose means for demodulating a second RF signal provided to the first communication device from the second communication device; the means for demodulating receives data at a level of a second threshold or higher, the second threshold being higher than the first threshold.



Vega discloses a communication device, comprising:

means for demodulating a second RF signal provided to the first communication device from the second device (see col.9, line 5-7, col. 12, line 37-59, discloses demodulating a received RF signal); and

the means for demodulating receives data at a level of a second threshold or higher (see figure 1, col. 6, lines 1-22, discloses transceiver operating at a second read range), the second threshold being higher than the first threshold (see figure 1, col. 6, line 1-22, discloses active read range and passive read range as threshold, and active being higher than passive), wherein communicating in passive mode when within the passive read range and communicating in active mode when in the active read range (see figure 1, col. 6, line 1-22, discloses active read range and passive read range).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to modify to include detection of the level of RF and performing communication based on detection and range.

The motivation for doing so would be to detection the range and perform communication based on the detected range.

### Claim Rejections - 35 USC § 101

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

10. Claim 17 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims fail to place the invention squarely within one statutory class of invention. Based on the broadest reasonable interpretation of the term "tangible computer readable medium," the term is not limited to non-transitory computer readable storage media, and can include transitory media. The transitory media generally stores data/signals in form of signals. Signals are form of energy. As such, the claim is drawn to a form of energy and/or signal per se. Energy is not one of the four categories of invention and therefore this claim(s) is/are not statutory. Energy is not a series of steps or acts and thus is not a process. Energy is not a physical article or object and as such is not a machine or manufacture. Energy is not a combination of substances and therefor not a composition of matter. Signal per se does not appear to be a process, machine, manufacture or composition of matter.

[Claims that recite nothing but the physical characteristics of a form of energy, such as frequency, voltage or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U. S. (15 How.) at 112-14. See also In re Nuijten. Docket no. 2006-1371 (Fed. Cir. Sept. 20, 2007)(slip. Op. at 18): "A propagating signal is not a process, machine, manufacture or composition of matter"]

Thus, such a signal is not patentable subject matter.

### **Claim Rejections - 35 USC § 103**

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claims 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vega et al. (USP 6282407 B1, hereinafter referred to as Vega) in view of Iijima et al. (EP 0513507 A1, published 11/19/1992, hereinafter referred to as Iijima).

Regarding claim 13, Vega discloses a communication device, comprising:

means for generating an RF (radio frequency) signal (see col. 7, line 13-col. 8, line 17, col. 8, line 41-45, discloses generating the read or write signal carrying information stored in the memory, the signal transmitted over the air);

means for modulating the RF signal (see col. 8, line 10-17, col. 8, line 41-45, col. 12, line 60-col. 13, line 6, discloses a modulator for modulating signals) and for modulating a received RF signal of another device (see col. 7, lines 64-col. 8, line 17, discloses modulating a received RF signal of another device);

means for demodulating a second RF signal provided to the communication device from the another device (see col.9, line 5-7, col. 12, line 37-59, discloses demodulating a received RF signal); and

means for detecting the second RF signal of the another device (see col. 7, line 14-56, col. 8, line 46-63, discloses that when the transceiver is within the read range, the transceiver is activated using the AC signal), wherein the means for generating is actuated detecting to initiate an active or a passive mode communication (col. 7, line 14-56, col. 8, line 46-63, discloses activating at least passive communication activation using the AC signal when the transceiver is within the reading range), when the means for detecting does not detect the second RF signal at a level of a first threshold or more (col. 7, line 14-56, when the transceiver is within the read range, the read range is 4-30 inches for passive transceiver, i.e. the read range which is smaller than the 30 inches or more, see col. 2, line 66-col. 3, line 9), the active mode including a transmission of modulated data at the communication device and the another device (see col. 9, line 30-col. 10, line 33, col. 10, line 63-col. 11, line 6, col. 14 line 7- col. 14 line 10, discloses active mode for transmission of data), the passive mode providing load modulated communication from the another device to the communication device (see col. 6, line 11-15, col. 14 line 7- col. 14 line 10, discloses passive mode providing load modulated communication), and, the means for demodulating receives data at a level of a second threshold

or higher (see **figure 1, col. 6, lines 1-22, discloses transceiver operating at a second read range**), the second threshold being higher than the first threshold (see **figure 1, col. 6, line 1-22, discloses active read range and passive read range as threshold, and active being higher than passive**), wherein communicating in passive mode when within the passive read range and communicating in active mode when in the active read range (see **figure 1, col. 6, line 1-22, discloses active read range and passive read range**).

Vega fails to explicitly disclose when the communication device receives an indication to start a communication of the active mode from the another device, the means for demodulating receives data.

Iijima explicitly discloses a method for receiving an indication of preference of the communication protocol from the another device, and in response to the request determining supportable communication protocol and performing communication based on the preferred communication protocol (see **col. 3, line 7-col. 4, line 15, discloses receiving a request indicating supportable protocols and determining the supportable protocol for the device and performing communication**).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to modify to include sending a request when the transceiver is out of the passive read range, but within an active read range desirability for switching into active mode of communication, since Vega explicitly discloses operating between two read ranges implementing two protocols for communications.

The motivation for doing so would be perform communication even when the transceiver moves into a greater distance.

Regarding claim 14, Vega discloses a communication device further comprising: means for setting the first and second threshold (**col. 8, lines 18-45, discloses a mode register for storing the modes of the transceiver and configuration information**).

Regarding claim 15, Vega discloses a communication device wherein the RF signals are transmitted/received by a coil antenna (**col. 2, lines 4-26, discloses radiating information using coil antenna**).

Regarding claim 16, Vega discloses a communication device, comprising:  
generating an RF (radio frequency) signal at a first communication device (**see col. 7, line 13-col. 8, line 17, col. 8, line 41-45, discloses generating the read or write signal carrying information stored in the memory, the signal transmitted over the air**);

modulating the RF signal (**see col. 8, line 10-17, col. 8, line 41-45, col. 12, line 60-col. 13, line 6, discloses a modulator for modulating signals**) and modulating a received RF signal of second communication device (**see col. 7, lines 64-col. 8, line 17, discloses modulating a received RF signal of second device**);

demodulating a second RF signal provided to the first communication device from the second device (**see col.9, line 5-7, col. 12, line 37-59, discloses demodulating a received RF signal**); and

detecting the second RF signal of the second communication device (**see col. 7, line 14-56, col. 8, line 46-63, discloses that when the transceiver is within the read range, the**

**transceiver is activated using the AC signal)**, wherein the generating is actuated to initiate an active or a passive mode communication (**col. 7, line 14-56, col. 8, line 46-63, discloses activating at least passive communication activation using the AC signal when the transceiver is within the reading range**), when the means for detecting does not detect the second RF signal at a level of a first threshold or more (**col. 7, line 14-56, when the transceiver is within the read range, the read range is 4-30 inches for passive transceiver, i.e. the read range which is smaller than the 30 inches or more, see col. 2, line 66-col. 3, line 9**), the active mode including a transmission of modulated data at the first communication device and the second communication device (**see col. 9, line 30-col. 10, line 33, col. 10, line 63-col. 11, line 6, col. 14 line 7– col. 14 line 10, discloses active mode for transmission of data**), the passive mode providing load modulated communication from the second communication device to the first communication device (**see col. 6, line 11-15, col. 14 line 7– col. 14 line 10, discloses passive mode providing load modulated communication**), and, the means for demodulating receives data at a level of a second threshold or higher (**see figure 1, col. 6, lines 1-22, discloses transceiver operating at a second read range**), the second threshold being higher than the first threshold (**see figure 1, col. 6, line 1-22, discloses active read range and passive read range as threshold, and active being higher than passive**), wherein communicating in passive mode when within the passive read range and communicating in active mode when in the active read range (**see figure 1, col. 6, line 1-22, discloses active read range and passive read range**).

Vega fails to explicitly disclose when the communication device receives an indication to start a communication of the active mode from the second communication device, the means for demodulating receives data.

Iijima explicitly discloses a method for receiving an indication of preference of the communication protocol from the another device, and in response to the request determining supportable communication protocol and performing communication based on the preferred communication protocol (see col. 3, line 7-col. 4, line 15, discloses receiving a request indicating supportable protocols and determining the supportable protocol for the device and performing communication).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to modify to include sending a request when the transceiver is out of the passive read range, but within an active read range desirability for switching into active mode of communication, since Vega explicitly discloses operating between two read ranges implementing two protocols for communications.

The motivation for doing so would be perform communication even when the transceiver moves into a greater distance.

Regarding claim 17, Vega discloses a tangible, computer readable storage medium encoded with computer program instructions, which when executed cause the computer to operate as a near field communication device (see figure 4A, 4B, 7) implementing a method comprising:

generating an RF (radio frequency) signal at a first communication device (see col. 7, line 13-col. 8, line 17, col. 8, line 41-45, discloses generating the read or write signal carrying information stored in the memory, the signal transmitted over the air);



modulating the RF signal (see col. 8, line 10-17, col. 8, line 41-45, col. 12, line 60-col. 13, line 6, discloses a modulator for modulating signals) and modulating a received RF signal of second communication device (see col. 7, lines 64-col. 8, line 17, discloses modulating a received RF signal of second device);

demodulating a second RF signal provided to the first communication device from the second device (see col. 9, line 5-7, col. 12, line 37-59, discloses demodulating a received RF signal); and

detecting the second RF signal of the second communication device (see col. 7, line 14-56, col. 8, line 46-63, discloses that when the transceiver is within the read range, the transceiver is activated using the AC signal), wherein the generating is actuated to initiate an active or a passive mode communication (col. 7, line 14-56, col. 8, line 46-63, discloses activating at least passive communication activation using the AC signal when the transceiver is within the reading range), when the means for detecting does not detect the second RF signal at a level of a first threshold or more (col. 7, line 14-56, when the transceiver is within the read range, the read range is 4-30 inches for passive transceiver, i.e. the read range which is smaller than the 30 inches or more, see col. 2, line 66-col. 3, line 9), the active mode including a transmission of modulated data at the first communication device and the second communication device (see col. 9, line 30-col. 10, line 33, col. 10, line 63-col. 11, line 6, col. 14 line 7- col. 14 line 10, discloses active mode for transmission of data), the passive mode providing load modulated communication from the second communication device to the first communication device (see col. 6, line 11-15, col. 14 line 7- col. 14 line 10, discloses passive mode providing load modulated communication), and, the means for demodulating

receives data at a level of a second threshold or higher (see figure 1, col. 6, lines 1-22, discloses **transceiver operating at a second read range**), the second threshold being higher than the first threshold (see figure 1, col. 6, line 1-22, discloses **active read range and passive read range as threshold, and active being higher than passive**), wherein communicating in passive mode when within the passive read range and communicating in active mode when in the active read range (see figure 1, col. 6, line 1-22, discloses **active read range and passive read range**).

Vega fails to explicitly disclose when the communication device receives an indication to start a communication of the active mode from the second communication device, the means for demodulating receives data.

Iijima explicitly discloses a method for receiving an indication of preference of the communication protocol from the another device, and in response to the request determining supportable communication protocol and performing communication based on the preferred communication protocol (see col. 3, line 7-col. 4, line 15, discloses **receiving a request indicating supportable protocols and determining the supportable protocol for the device and performing communication**).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to modify to include sending a request when the transceiver is out of the passive read range, but within an active read range desirability for switching into active mode of communication, since Vega explicitly discloses operating between two read ranges implementing two protocols for communications.

The motivation for doing so would be perform communication even when the transceiver moves into a greater distance.

### **Conclusion**

The teachings of the prior art should not be restricted and/or limited to the citations by columns and line numbers, as specified in the rejection. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in its entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

In the case of amendments, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and support, for ascertaining the metes and bounds of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NISHANT B. DIVECHA whose telephone number is (571)270-3125. The examiner can normally be reached on Monday through Friday 1030 am to 6 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Ryman can be reached on (571) 272-3152. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nishant B Divecha/  
Examiner, Art Unit 2466